



JLGmed

RE: North Dakota Senate Committee Hearing on SB 2241

January 29, 2021

Thank you, Chairman Burckhard and the members of the Committee. I appreciate the opportunity to provide testimony related to Senate Bill 2241 and offer insight into the process of the state Department of Health health care facility review process and implementation from the perspective of the healthcare architect and design team. I am Todd Medd, director of the Healthcare Practice Studio for JLG Architects. JLG is a 150 person architecture firm founded in North Dakota 32 years ago and has grown to 12 offices across the Midwest. As leader of our healthcare studio, JLGmed, I work closely with our clients and lead large teams of architects, medical planners, and engineers to design, document and administer construction on healthcare projects for some of the state's largest health systems. Our projects range from small clinic fit ups and renovations to the design of some of the largest medical centers in our state and region, including work for Sanford Health, Altru Health System, the Anne Carlsen Center, CHI, the VA, and many others. Thank you for the opportunity to come before you today to share thoughts on SB 2241.

North Dakota health care leaders have expressed great interest in expediting the state's review process. Delayed review and approval processes negatively impact health care leaders' ability to manage capital and human resource investments and can delay access to care. I would like to open by acknowledging and commending the work that is done by the State Department of Health Division of Life Safety and Construction. We work very closely with the team to help ensure the health, safety and welfare of the citizens of North Dakota. We always feel that this is an open door to communicate about upcoming projects or questions that we may have regarding specific code related issues. We see the department as a partner in healthcare design and construction and have created a dialogue over the last number of years to find ways to help streamline the process and think outside of the box in innovative ways to help drive forward healthcare in our state. As part of that process, JLG, the office of the Governor, and the NDDoH Division of Life Safety and Construction have been communicating to look at process improvement on both the side of the design teams and health systems as well as the department. I am excited about the engagement of the Legislature, as well, so that we can help move the process forward in a proactive way. Because of this collaboration and this forum that is being created with the engagement of the state legislative bodies, we are very excited by the steps that are being taken and the future

opportunity for process improvement that will help revolutionize healthcare and healthcare design in our state, especially while we are in the midst of a pandemic finding ways to create more efficiency for our healthcare entities in the state is paramount.

Design and Review Process Overview

I am not sure how familiar this committee is with the process that is currently in place, but I felt it was prudent to create some context about how we execute a project review with the North Dakota Department of Health. This process typically starts at the beginning of the design of a project with a meeting with the NDDoH team to give them a heads up on the project, the scale, scope and schedule. The department will only review projects that fall under their jurisdiction, these projects include hospitals, nursing facilities, surgical centers, etc. and includes projects that range from small change of use projects and renovations in existing hospitals all the way to new hospitals and nursing homes. Projects like clinics and other outpatient facilities that are not required to comply with the Facility Guidelines Institute Guidelines for Design and Construction (FGI) and the National Fire Protection Association Life Safety Code (NFPA) are not reviewed at the state level and are rather handled only by the local authority having jurisdiction in the community that the facility is planned.

Once the project design and documentation phases are complete, which is a process that can take anywhere from 8 weeks for a small project to nearly a year or more for a large hospital, the set of contract documents, including all drawings and specifications, is submitted to the State Department of Health for review, and the project is put into the cue to await the review period starting. The length of time that it takes to complete a review is dependent on the scale and complexity of the project as well as the length of the drawing review cue. As you are aware, the department is now complying with the stipulation of the previous SB 2317 which requires review of small projects under \$1 million to be reviewed within 60 days. In our experience, the review period for medium sized projects to the large hospital project will be between 8 months and a year. This is where our clients struggle the most, as we work with our teams to build a schedule, we need to accommodate a lengthy review period that directly impacts the length of time it takes to build a new facility, not only costing the health system revenue but also delaying the patients access to a new or renovated facility. In addition, these delays while the project is being reviewed have financial implications for our clients, we are seeing escalation of construction costs to be in the range of 2-4% annually, meaning that a yearlong review process could cost a client building a \$100M facility between \$2 and 4M in additional construction cost. We have seen that the

NDDoH Division of Life Safety and Construction has been able to comply with SB 2317 and have been reviewing small projects per that directive of 60 days, which has been helpful. What I am not privy to, however, is if that change has caused some operational challenges to the Division of Life Safety and Construction that could impact review times of the medium and large-scale projects as they have to change their focus to jump into these smaller projects as they are submitted.

Once the initial review period is completed, the design team responds to all comments and questions that the NDDoH Division of Life Safety and Construction has on the project. The number of questions or clarifications can range from as few as 2 or 3 on small and less complex projects and can be as many as hundreds of comments on large projects. The challenge with building codes, much like laws, is in the interpretation of the intent and execution of the code language. Most items are often related to how we interpret code as we complete the design of the facility compared to how the plan review team interprets the code, however we work through these items and not only respond to each comment and question but update drawings accordingly. We will then resubmit the drawings after this secondary process. Once all items are finalized, a permit will be issued and construction on that scope of work can commence. As construction work progresses, JLG and our design team as well as our client representatives along with their project contractor work closely with the NDDOH field inspectors at the site of construction to verify that what is built complies with the construction documents and the intent of the code. It is a very collaborative process during construction.

Case Studies

I feel that part of the frustration on the part of design teams and health systems is that we have seen this process be executed more efficiently in other states. For instance, in Minnesota design teams are seeing on average an 8-10-week turnaround for large healthcare project reviews. In addition, they have come to expect conversations and meetings to prepare them for the review during the design phase and they seek a collaborative approach to dealing with code interpretation and finding ways to meet the intent of the code through innovative means. In South Dakota the average review period on all projects is between 4 to 6 weeks, again, much of the efficiency is found in a couple of strategies, one is the number of meetings during the design phase that the design team will have with the plans reviewer as well as a dispersed model of having inspectors more strategically situated around the state for easy access for architects, engineers as well as health systems. We have not seen that South Dakota has an RFP process to outsource to outside vendors.

Regarding this, it is our understanding that in Colorado, they tend to RFP many of the large projects, allowing them to have a much smaller department while still being able to deal with large projects as they come into the state for review.

Thoughts on SB 2241

Specifically related to SB 2241, this bill aims to create more defined and more aggressive time frames for project reviews. The bill proposes reducing the current 60 day limit for smaller projects to 28 days and increasing the scale of the projects to \$5 million construction cost and it adds a 56 day limit for review period for all other larger projects. While I feel that these time frames are aggressive, I support creating more rapid and defined review periods. I would request though that the committee investigate clarifying the requirements of this review period; as I noted above, the review is usually a multistep process that includes an initial review and one or more subsequent submittals that address comments from the NDDOH. In order to create clarity, it would be important to define this multi-phase process of review in the bill. As you have heard based on case studies from other states, the timeframe for review proposed is aggressive but seems to be in line with other states and similar jurisdictions. The clarity that such limits would create for clients would allow for much more accurate capital and project planning as well as overall capital outlays for projects. I also strongly support the use of innovation waivers that allow for deviating from the code when it does not impact health and safety of occupants, especially as we come out of a long pandemic that will cause many design and healthcare delivery innovations and changes. This process will allow healthcare providers to be more nimble in their delivery of care as changing codes is a very slow process that can take many years.

What is working and opportunities going forward

As mentioned previously, I believe that the key to better communication, shorter review times, and better alignment between design team and the NDDoH Division of Life Safety and Construction is the ability to continue to have an open dialogue and communication with the State Department of Health. In fact, we have discussed with the NDDoH looking into a process where there are opportunities during the design phases where the team sits together and does a page turn, thus allowing the reviewers much more insight into the project, why we have interpreted code language a certain way, and allows for much greater understanding of the design and context prior to their official review. This collaborative approach would allow the NDDoH team to better understand the project earlier as well as raise concerns during design so that the design team can implement changes into the drawings during the design phase prior to the official review, thereby streamlining the review process.

Recently, we have seen value in implementing such practices as the posting of the Project Status Summary online, as this allows the team and client to not only plan for project review times, but also to understand where our project stands in the cue. As noted above, we find great value in the process of having an Innovation Waiver. This really has gotten our end user clinician clients excited as it allows them to deliver care in a way that meets the intent of code while building in some options for how they innovate based on changing best practices that are not always reflected in the code language. As we all know, this is not always a straightforward process, but investigating how other states and municipalities have done this can help us all create a process that is more streamlined but also has the necessary oversight of this complex review task. Finally, I wanted to commend the department for having the onsite inspection process in place on these large projects, our team has truly seen the value of having a member of the team working with us and the contractor in the field to identify concerns or issues as the building is being constructed that we can change or adjust before the project gets too far along to do so in an economical manner.

Conclusion

I would like to thank Chairman Burckhard and the members of the Committee for this opportunity to engage in this very important dialogue. I am excited about the continued dialogue in how we can work together with the state to continue to improve this process. I support this bill with the notes and comments previously mentioned. In the end, we are all teammates in a process aimed at delivering quality projects that improve access and quality of healthcare to our communities in North Dakota that absolutely comply with our primary obligation as an architect and design professional which is to ensure the health, safety, and welfare of the occupants of our buildings. Thank you, and I would be open to answering any questions that you may have today.